

BEFORE THE IDAHO BOARD OF TAX APPEALS

GEORGIOU FAMILY TRUST,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1228
	)	
v.	)	FINAL DECISION
	)	AND ORDER
KOOTENAI COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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**RESIDENTIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Kootenai County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. 080570010110. The appeal concerns the 2015 tax year.

This matter came on for hearing October 29, 2015 in Coeur d'Alene, Idaho before Board Member Linda Pike. Trustee Thomas Georgiou appeared at hearing for Appellant. Chief Deputy Assessor Richard Houser represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns the market value of an improved residential property.**

**The decision of the Kootenai County Board of Equalization is modified.**

**FINDINGS OF FACT**

The combined assessed land value is \$270,044, and the improvements' value is \$732,698, totaling \$1,002,742. Appellant contends the correct total value is \$840,000.

The subject property is a 1.976 acre parcel situated in the Syringa Heights 1st Addition subdivision located on the east side of Lake Coeur d'Alene. The property is improved with a multi-level 5,978 square foot Tuscan-style residence constructed in 2002. The residence includes three (3) bedrooms, three (3) bathrooms, exterior decks, and an attached four (4) car

garage.

Appellant purchased subject in July 2014 for \$805,500, which in Appellant's view should represent the current assessed value. Appellant detailed the process which ultimately led to subject's purchase. As of February 2014, subject was listed for sale at \$999,000. The price was reduced to \$895,000 the following month. At this point, Appellant entered into negotiations with the seller and an agreement was reached at a price of roughly \$872,000. The ensuing inspection, however, revealed several deferred maintenance items in need of repair. Upon learning this information, Appellant requested the seller either remediate the defects or reduce the purchase price. The seller refused Appellant's proposal and soon thereafter the property fell into foreclosure. The bank took control of the property and in July 2014, listed it for sale with an asking price of \$849,500. Appellant entered into negotiations with the bank and the parties settled on a purchase price of \$805,500.

Respondent argued subject's purchase price should not factor into the analysis because it was a distressed sale. Respondent explained distressed properties often sell below market value. Respondent provided some sales data which indicated distressed properties sell at a discount of 20% or more. Appellant countered the bank was not a distressed seller and the purchase price represented market value. Appellant stated the bank was the party with superior bargaining power and dictated all the terms of the sale, including the final purchase price.

Appellant also offered an independent fee appraisal of the subject property. The appraisal was commissioned by Appellant's bank. Five (5) sales and two (2) active listings were considered in the appraisal. The sale properties were generally similar to subject in terms of lot size, however, the residences ranged from 2,122 to 5,582 square feet. Sale prices were

between \$670,000 and \$1,200,000. The appraisal adjusted the sales for differences compared to subject such as square footage, bedroom and bathroom count, garage size, fireplaces, and other amenities. Adjusted sale prices were between \$807,280 and \$1,092,380. The active listings respectively featured 16.47 and 1.26 acre lots improved with 4,232 and 3,424 square foot residences. Asking prices were \$779,000 and \$875,000 and adjusted prices were \$813,770 and \$941,380, respectively. The appraisal concluded a value of \$840,000 for subject.

Respondent challenged some aspects of the appraisal. Of primary concern was the appraisal did not include a time adjustment for the sales and listings, which Respondent estimated was an upward rate of .5% per month during 2014. Respondent also remarked the appraisal did not adjust for the fact Sale No. 1 was a bank sale and had some known defects at the time of sale such as the presence of black mold, ventilation issues, and water damage. Respondent estimated a cost to cure of \$20,000. Finally, Respondent noted the appraisal did not adjust most of the sales and listings for lot size. In all, Respondent contended the appraisal contained too many errors to be considered a reliable value opinion.

Offered in support of Respondent's value position were five (5) improved sales. Four (4) of the sales were the same as those included in Appellant's fee appraisal. Sale No. 5, however, concerned a property in subject's immediate neighborhood. Sale No. 5 included a 2,867 square foot residence attached to 1.264 acre lot. The property sold in March 2015 for \$1,025,000, which Respondent time adjusted back to January 1, 2015 to arrive at a price of \$1,012,188. Similar to the fee appraisal, Respondent directly compared each sale property to subject and made adjustments for physical differences, with the largest adjustments being to site values and residence size. Adjusted sale prices ranged from \$914,995 to \$1,359,452. Based on this,

Respondent concluded subject's value of roughly \$1,200,000 was reasonable.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Market value is estimated according to recognized appraisal methods and techniques. The income approach, cost approach, and the sales comparison approach represent the three (3) primary methods of determining market value. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is often valued using the sales comparison approach, and both parties offered relevant information in this regard.

Appellant contended subject's mid-2014 purchase price should be the current assessed value. Appellant acknowledged subject was purchased from a bank, however, maintained the negotiated sale price reflected market value. Appellant described the bank as the party with the superior bargaining power and the party who dictated the terms of the sale. In Appellant's opinion, the bank was not distressed nor otherwise compelled to sell subject below market value.

While we understand Appellant's view on the matter, we do not agree subject's purchase

price necessarily reflects market value. Typically, transactions in which a bank is a party are not considered valid market value transactions. While perhaps not *distressed* in a traditional financial sense, banks are not in the business of buying and selling real estate. A bank's motivation to sell is usually somewhat different than a typical buyer in the market, which can notably influence the sale price. Indeed, Respondent presented some distressed sales data indicating bank-owned properties can sell at a discount of 20% or more, which estimate is consistent with the Board's experience regarding distressed sales. As a result, minimal weight was afforded subject's purchase price.

The fee appraisal, on the other hand, was well received by the Board. The appraisal considered five (5) sales and two (2) active listings for comparison with subject. Adjustments were made for physical differences between subject and the compared properties. Generally, the adjustments appeared typical and reasonable. The appraisal concluded a value of \$840,000 for subject.

Respondent challenged some aspects of the fee appraisal. In particular, Respondent noted the appraisal did not apply time adjustments to the sales and did not make site adjustments. Respondent also took issue with no adjustment being made for the fact Sale No. 1 involved a bank-owned property and at the time of sale needed an estimated \$20,000 in repairs. In all, Respondent contended the appraisal was not the best indicator of subject's value and should not be considered. We disagree.

Respondent's primary concern centered on the lack of adjustment to Sale No. 1 because it was a distressed sale. We agree, it is generally proper to disregard or to adjust distressed sales if support for such adjustment is available. In this particular case, however, the lack of

adjustment is less of a concern because the appraisal acknowledged it was a bank sale and was thus, "... not considered a market transaction." See *Appellant's Exhibit D*, page 2. Further, the impact of including an unadjusted distressed sale is minimized by the fact four (4) other sales and two (2) listings were included in the model, one (1) of which sold less than Sale No. 1. Respondent's issue regarding the appraisal's lack of time adjustments was also not regarded by the Board as a fatal error, because four (4) of the sales occurred within just a couple months of the effective valuation date, and the listings were active at the time of the appraisal.

Respondent's value position was developed similarly to that of the fee appraisal by comparing subject to several recent sales. Four (4) of the sales utilized in Appellant's appraisal were included in Respondent's analysis, and the fifth sale concerned a property located in subject's neighborhood. The problem with this last sale is the sale did not occur until March 2015 which is several months beyond the January 1, 2015 assessment date. Unless unique circumstances warrant consideration of sales beyond the assessment date, the Board's review is generally restricted to market data from prior to January 1st. In this case, with the other timely sales and market value evidence in record, the Board excluded the 2015 sale from consideration.

After removing the 2015 sale, what remains are the four (4) sales used by both parties, as well as, an additional sale and two (2) listings from Appellant's appraisal. The Board appreciates the challenges associated with estimating the value of a large custom residence. These challenges are evident in both parties' analyses, which include rather large gross and net adjustments. The primary difference in the parties' respective valuation models appear to be the adjustments for time and site. Respondent made notably large adjustments for "site", however,

it was not clear if the adjustments were for size, location, or both. Without adequate support or explanation, the Board was reluctant to rely heavily on Respondent's large site adjustments. The Board agrees, however, a time adjustment should be made to reflect values on the assessment date.

There were some concerns with both sales comparison approaches, however, on an overall basis the parties' respective value positions were found to be relatively well supported and reasonably determined. Weighing all the evidence presented, the Board finds sufficient basis to reduce subject's value, though not to the level petitioned by Appellant.

Idaho Code § 63-511 requires Appellant prove error in subject's assessed value by a preponderance of the evidence. The burden of proof was satisfied in this instance. As a result, the decision of the Kootenai County Board of Equalization is modified to reflect a total value of \$910,000, of which \$639,956 is attributable to the improvements.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Kootenai County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED, to reflect a decrease in the value of subject's improvements to \$639,956, with no change to the \$270,044 land value, for a total value of \$910,000.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 2<sup>nd</sup> day of March, 2016.